



October 28, 2016

**Ex Parte**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

**Re:**     *Use of Spectrum Bands Above 24 GHz for Mobile Radio Service, GN Docket No. 14-177*  
          *OET and WTB Seek Information on Current Trends in LTE-U and LAA Technology, ET*  
          **Docket No. 15-105**

Dear Ms. Dortch:

On October 26, 2016 Michael Calabrese and Jeremy Greenberg, representing the Open Technology Institute at New America (OTI), met with Julie Knapp, chief of the Office of Engineering & Technology, and OET staff members Ira Keltz, Michael Ha, Walter Johnston and Jamison Prime, concerning the above-listed proceedings.

Concerning **LTE-U and its potential coexistence with the Wi-Fi ecosystem**, the advocates stated that although OTI views the recently completed Wi-Fi Alliance coexistence testing plan to be a positive step, the Commission should, as OET Chief Knapp stated in his recent FCC blog post, “continue to closely monitor the roll-out of unlicensed LTE technology to ensure there is no detrimental impact on consumers.” OTI knows from its participation in the Public Interest Spectrum Coalition (PISC) that consumer groups, schools and library associations, and many large cities (including New York City) do not consider the industry compromise test plan to be adequate protection, since it suggests that carrier-deployed LTE-U would not need to detect or coexist with roughly 50 percent of all Wi-Fi connections. Moreover, the Commission should ensure that any unlicensed LTE equipment – whether labeled as LTE-U, or LAA, or other similar technology – is at a minimum subject to coexistence testing no less protective of the existing unlicensed ecosystem than is the Wi-Fi Alliance test plan.

The OTI representatives stated that irrespective of any industry standards body’s efforts, the Commission must bear in mind that although we oppose the notion that Wi-Fi is an “incumbent” that deserves interference protection, the reality is that unlicensed bands have avoided a proverbial “tragedy of the commons” only because incentives are aligned among users and social norms have developed that support coexistence. Unfortunately, mobile carrier incentives are not aligned with the public interest in open and fair sharing of unlicensed spectrum. As OTI and other PISC groups explained in comments filed

in response to the PN last year,<sup>1</sup> carriers have both the ability and strong incentives to use LTE-U and LAA to engage in anti-competitive behavior harmful to consumers, while for the first time being able to charge consumers for the use of unlicensed spectrum. Carriers have powerful incentives to use LTE-U and LAA to deter mobile market entry by “Wi-Fi First” providers, such as wireline ISPs, as well as to shrink the coverage areas of Wi-Fi hotspots that are already deployed, or planned for deployment, by cities, schools, retailers and other end users who leverage wireline backhaul to offload mobile device data traffic.

With respect to the **Spectrum Frontiers NPRM**, the representatives summarized the main points from FNPRM Comments that OTI and PK filed jointly on September 30. We asked technical questions concerning the FNPRM, including whether OET had reached any conclusions about the frequency threshold at which indoor and low-power mmW transmissions could leak outside a venue to a degree that would cause harmful interference with neighboring or outdoor operations (e.g., in the 70/80 GHz bands).

The representatives also reiterated our position that extending the Spectrum Access System (SAS) governance model to the mmW bands creates a flexible sharing framework that best protects band incumbents (including any need to prioritize Federal use), facilitates efficient spectrum re-use, and promotes lower barriers to entry and innovation. A full SAS implementation is also best able to effective coordination of a use-or-share obligation that enables opportunistic access to unused spectrum in licensed bands above 37.6 GHz.

Respectfully submitted,

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cc: Julius Knapp  
Ira Keltz  
Michael Ha  
Walter Johnston  
Jamison Prime

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<sup>1</sup> See Reply Comments of OTI, Public Knowledge, Free Press and Common Cause, *OET and Wireless Telecommunications Bureau Seek Information on Current Trends in LTE-U and LAA Technology*, ET Docket No. 15- 105 (June 26, 2015).